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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/909,072 | 07/18/2001 | Michael B. Jones | MS1-204USC1 | 9796 |

22801 7590 06/26/2006

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

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| EXAMINER |
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TRUONG, CAMQUY

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| ART UNIT | PAPER NUMBER |
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2195

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/909,072

Applicant(s)

JONES ET AL.

Examiner

Camquy Truong

Art Unit

2195

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2001.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-30 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 24-30 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/9/01.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 24-30 are presented for examination.
2. It is noted that although the present application does contain line numbers in the specification and claims, the line numbers in the claims do not correspond to the preferred format. The preferred format is to number each line of every claim, with each claim beginning with line 1. For ease of reference by both the examiner and Applicant all future correspondence should include the recommended line numbering.

Claim Objections

3. Claim 24 is objected to because of the following informalities: claim 24 is depended on the canceled claim. Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 25-30 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter.
5. Claim 25 is rejected under 35 U.S.C 101 because the claimed invention is directed to non-statutory subject matter as not being tangible because the software

program product claims do not result in a practical application producing a useful, concrete, an tangible result to form the basis of statutory subject matter under 35 USC 101.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 25-30 are rejected under 35 U.S.C. 102 (e) as being anticipated by Sreenan (U.S. Patent 5,742,772).

7. As to claim 25, Screenan teaches the invention as claimed including: in a computer system having resources and a resource planner for granting reservations of amounts of resources to activities performed on the computer system (col. 5, lines 45-62; col. 7, line 59 – col. 8, line 18), a method comprising the computer-implemented steps of:

negotiating between the resource planner and activities to reserve shares of the resources with the resource planner on behalf of the activities (col. 2, lines 10-26; col. 10, lines 63); and

in view of changing resource usage or requirements, renegotiating between the resource planner and the activities to change reservations of resources on behalf of the activities to reflect the changing resource usage or requirements (col. 2, lines 10-26; col. 10, lines 27-63).

8. As to claim 26, Screenan teaches the changing resource usage or requirements are the product of a new activity being performed (col. 2, lines 22-26).

9. As to claim 27, Screenan teaches the changing resource usage or requirements are the product of an activity changing its resource requirements (col. 2, lines 22-26; col. 10, lines 27-35).

10. As to claims 28- 29, Screenan teaches the changing resource usage or requirements are the product of a persistent overload of use of a resource (col. 11, lines 32-52).

11. As to claim 30, Screenan teaches the changing resource usage requirements are the product of a change in resource allocation policy (col. 2, lines 27-35).

12. Claims 25-30 are rejected under 35 U.S.C. 102 (e) as being anticipated by Baugher et al (U.S. Patent 5,634,006).

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13. As to claim 25, Baugher teaches the invention substantially as claimed including: in a computer system having resources and a resource planner for granting reservations of amounts of resources to activities performed on the computer system (col. 2, lines 8-22; col.6, line 64 – col. 7, line 8), a method comprising the computer-implemented steps of:

negotiating between the resource planner and activities to reserve shares of the resources with the resource planner on behalf of the activities (col. 2, lines 8-22; col. 6, lines 42-56; col. 8, line 66 – col. 9, line 11); and

in view of changing resource usage or requirements, renegotiating between the resource planner and the activities to change reservations of resources on behalf of the activities to reflect the changing resource usage or requirements (col. 6, lines 41-56; col. 9, line 12-19).

14. As to claim 26, Baugher teaches the changing resource usage or requirements are the product of a new activity being performed (col. 9, lines 12-19).

15. As to claim 27, Baugher teaches the changing resource usage or requirements are the product of an activity changing its resource requirements (col. 2, lines 22-26; col. 10, lines 27-35).

16. As to claims 28- 29, Baugher teaches the changing resource usage or requirements are the product of a persistent overload of use of a resource (col. 8, lines 16-36).

17. As to claim 30, Baugher teaches the changing resource usage requirements are the product of a change in resource allocation policy (col. 12, lines 49-62).

Conclusion


18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camquy Truong whose telephone number is (571) 272-3773. The examiner can normally be reached on 8AM – 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3756.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIP. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIP system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

Camquy Truong

June 22, 2006


SUPERVISORY PATENT EXAMINER
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